

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA
Plaintiff

v.

EARL ANTHONY CRUZ CRUZ
Defendant

CRIMINAL NO. 05-345(JAG)

REPORT AND RECOMMENDATION

On this date defendant appeared before the undersigned to plea guilty to Count II of the indictment charging him with violating of 18 U.S.C. §§842(a)(1), 844(a)(1) and 2. Defendant was represented by AFPD Juan F. Matos de Juan, with whom is satisfied with his representation. The government, in turn, was represented by AUSA Lynn Doble Salicrup. The parties duly executed a consent form permitting the undersigned to take defendant's plea, pursuant to a plea agreement.

Upon examining defendant throughout the proceeding, the undersigned finds him competent to enter a plea. Defendant was advised at the hearing of the minimum and maximum statutory penalties he faces, and that the Sentencing Guidelines are advisory in nature. He was further advised that the sentencing judge has the authority to sentence him within those parameters, at the Court's discretion. More so, once he is sentenced, defendant may not withdraw his plea simply because he is not satisfied with the sentence imposed upon him. The undersigned also advised defendant of the constitutional rights he waives by entering a guilty plea.

Upon inquiry by the Court, defendant accepted all the elements of the offenses outlined in Count II of the indictment, as well as the fact that, in committing the offense, he acted knowingly, willfully and intentionally.

Defendant waived his right to appeal is sentenced under the terms of the plea agreement. At sentencing the Government will move for the dismissal of the remaining counts of the indictment.

It is thus recommended by the undersigned that defendant's guilty plea be accepted, and sentence be imposed upon him accordingly.

This report and recommendation is issued pursuant to 28 U.S.C. § 636 and Local Rule 72(d).

SO RECOMMENDED.

In San Juan, Puerto Rico, this 18th of January, 2006

/s/ Gustavo A. Gelpi

GUSTAVO A. GELPI
United States Magistrate-Judge